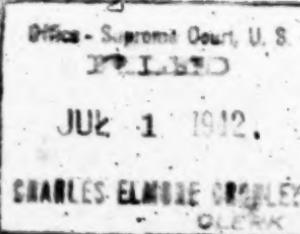




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**No. 142**

**In the Supreme Court of the United States**

**OCTOBER TERM, 1942**

**ENDICOTT JOHNSON CORPORATION, A CORPORATION,  
AND HOWARD A. SWARTWOOD, SECRETARY, ENDI-  
COTT JOHNSON CORPORATION, PETITIONERS**

v.

**FRANCES PERKINS, SECRETARY OF LABOR OF THE  
UNITED STATES**

**ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED  
STATES CIRCUIT COURT OF APPEALS FOR THE SECOND  
CIRCUIT**

**MEMORANDUM FOR THE RESPONDENT**



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MEMORANDUM FOR THE RESPONDENT

The court below held that, in a proceeding to enforce an administrative subpoena, the courts should not make an independent determination of the "jurisdiction" of the administrative agency issuing the subpoena. The decision, we believe, is clearly correct. In view of the manifest importance of the question, however, and the apparent conflict with the recent holding of the Circuit Court of Appeals for the Sixth Circuit in *General Tobacco and Grocery Co. v. Fleming*, 125 F. (2d) 596,

decided February 5, 1942, the Government does not oppose the granting of the petition for a writ of certiorari.<sup>1</sup>

Respectfully,

CHARLES FAHY,  
*Solicitor General.*

JUNE 1942.

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<sup>1</sup> The question here presented was argued but not passed upon in *Cudahy Packing Co. v. Holland*, No. 245 last Term, decided March 2, 1942.

